GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)

Labour Dispute :—Industrial Dispute between the Workmen and the Management of New Fort Lunch Home, K.R. Road, Bangalore-2.

Award of the Labour Court, Bangalore—published.

Read the following papers :—

Letter No. 822/67-68, dated 23rd October 1967 from Shri P. T. Kadkol, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT, BANGALORE.

Dated this 23rd day of October 1967.

Present :

Sri P. T. Kadkol, B.Sc., LLB. ... Presiding Officer.

Ref. No. 20 of 1967.

Workmen represented by the Secretary, Bangalore District Hotel and Canteen Workers' Union, 50-A, Arcot Srinivasachar Street, Bangalore-2. ... *I Party.*

Vs.

The Management of New Fort Lunch Home, K. R. Road, Bangalore-2. ... *II Party.*

Reference:

Government Order No. LMA 59 LLD 67 Bangalore, dated 15th February 1967.

AWARD.

The Government of Mysore, being of the opinion that an industrial dispute exists between the Workmen and the Management of M/s. New Fort Lunch Home, Bangalore, have referred it to

this Court for adjudication under Section 10 (1) (c) of the Industrial Disputes Act, 1947 by their Order No. LMA 59 LLD 67, dated 15th February 1967, setting out the following points of dispute for adjudication :—

> "Is the management of New Fort Lunch Home, K. R. Road, Bangalore-2, justified in terminating the services of Sri. Hari Rao? If not what is the relief the worker is entitled to?"

2. The cause of the aggrieved workman has been sponsored by the Bangalore District Hotel and Canteen Workers' Union, Bangalore which is a registered Trade Union. This Union, as representing the workmen, is the first party and the Management of the New Fort Lunch Home, Bangalore is the Second Party. The Union is represented by its President, Sri. S. Suryanarayana Rao. The Management is represented by Sri. P. Parameshwarayya, the proprietor of the Establishment.

3. The President of the Union has submitted the Statement of Claims, dated 3rd April 1967. The averments made therein are these :—

> The aggrieved workman Hari Rao was in the service of the Second Party for about 26 months; on 8th July 1966, the Management of the Second Party terminated his services, all of a sudden, without any reason and without any enquiry; the said termination is illegal and unjustified; hence it should be set aside and the Management be directed to reinstate the workman in his former post, with full back wages and continuity of service etc.

4. The proprietor of the Second Party Establishment has submitted the Statement of his objections dated 22nd April 1967. The averments made by him therein are these :—

> It is true that Hari Rao was in the service of the Second Party for 26 months; but it is not true to say that his services were terminated on 8th July 1966 by the management; he was working as a supplier: he was assigned to serve in the room meant for "families"; it was complained that he was not behaving properly with girl students visiting the establishment; one Sri R. Rangappa, a customer present in the family

room with his family, gave a complaint in writing on 5th July 1966 that Hari Rao had misbehaved with two girls; on 7th July 1966, the same gentleman gave another complaint regarding the misbehaviour of Hari Rao; the proprietor made enquiries and found that Hari Rao was in fact misbehaving; hence the proprietor directed him (Hari Rao) to do the work of a supplier in another room instead of in the family room; feeling aggrieved by this order of the proprietor, Hari Rao stayed away from work voluntarily, without informing the Management anything; thereafter on 8th July 1966 Hari Rao got a notice issued to the Management through the first party union to the effect that the Management had wrongfully terminated his services; the Management sent a reply to the Union, denying that it had done so and stating that Hari Rao had voluntarily stayed away from work and if Hari Rao turned up, work would be given to him; on receipt of this reply, Hari Rao came for work; the proprietor asked him to serve the customers in the common hall; he refused and demanded that this accounts should be settled; hence the Management made his accounts and found that Hari Rao owed a sum of Rs. 150 to the Management towards the advances taken less the salary due to him up to that date; Hari Rao promised to pay the said amount of Rs. 150 within 6 months and left the service of his own accord; thereafter as a matter of precaution the Management intimated Hari Rao on 15th July 1966, by issuing a notice, that his services had been terminated for misbehaviour; hence it can be seen that Hari Rao has abandoned his job voluntarily and even if it is deemed that the Management has terminated his services, the termination is fully justified; in these circumstances, the Reference deserves to be rejected, etc.

5. On the basis of these pleadings, the following issues have been framed on 24th June 1967 (*Vide* Order Sheet) and set down for hearing :—

1. Does the First Party prove that the Second Party has terminated the services of the workman Hari Rao?

2. Does the Second Party prove that Hari Rao has stayed away from work voluntarily for the reasons set out in the written statement ?

3. Does the Second Party prove the alleged misbehaviour of Hari Rao, as server in the family room ?

4. Is Hari Rao entitled to be reinstated with or without back wages and continuity of service ?

5. What Award ?

Parties were asked to lead evidence on these issues.

6. The case was fixed for evidence on 13th July 1967. On that day, Mr Suryanarayana Rao sought an adjournment on the ground that his party (Hari Rao) had not come and was reported to be ill. The Management also sought an adjournment. Hence the adjournment was granted. Thereafter the case came up for evidence on 1st August 1967. It was found that the First Party had no notice of the date fixed for evidence. Hence it was adjourned and posted to 2nd September 1967 and notice was directed to be issued to the First Party. The Notice was sent to the Second Party, by mistake, though it was not necessary. Hence on 2nd September 1967, the case was again adjourned and posted to 23rd September 1967 and notice was directed to be issued to the First Party. The Notice issued was received by Mr. Suryanarayana Rao on 5th September 1967 (*Vide* postal acknowledgement included in the file) when the case was called out on 23rd September 1967, it was found that none was present on behalf of the First Party. The aggrieved workman Hari Rao also was not present (*Vide* Order Sheet). Hence the case was heard in the absence of the first party.

7. On behalf of the Management of the Second Party, the proprietor of the Establishment, Sri Parameshwarayya, has examined himself as M.W. 1. He has also produced two documents marked Exts. M. 1 and M. 2. Parameshwariah has sworn to many of the facts set out by him in the statement of objections. In particular, he has stated that Hari Rao was working as supplier in the room meant for ladies; many lady customers were complaining to him about his misbehaviour; he ignored the complaints for some time; then on 5th July 1966, one Rangappa who was in the family room with his family for refreshments, complained to him against Hari Rao and even gave him the written complaint Ex. M. 1; then he asked Hari Rao to serve in the room

outside; Hari Rao did not like the change and stayed away from work, etc; Parameshwariah has also stated that he took part in the conciliation proceedings. He has produced a copy of the conciliating proceedings at Ex. M 2 Rangappas complaint corroborates the statement made by Parameshwaraiah. The conciliation proceedings show that Parameshwariah had taken Hari Rao back to duty on 12th July 1965. Parameshwarayya has stated that on 12th July 1965, he again asked Hari Rao to serve in the out-side room and not in the family room, but Hari Rao did not like the change and went away after settling his accounts. In the absence of any evidence to the contrary, I see no reason to reject the testimony of M.W. 1 and the evidence afforded by Exts. M. 1 and M. 2.

8. The burden of proving that Hari Rao's services were terminated by the Management lay on the First Party. By remaining absent and leading no evidence, it has failed to discharge the same. Hence, I shall have to record my finding on the first issue in the negative and I do so. By his own oath, corroborated to some extent by the documents Exts. M. 1 and M 2, Parameshwarayya has proved that Hari Rao left his job voluntarily in the circumstances stated by him. Accepting it, in the absence of any evidence to the contrary, I record my finding on the second issue in the affirmative. In view of my findings on the first and second issues, the third issue will not survive.

9. It follows, therefore, that Hari Rao is not entitled to be reinstated. In the result, I make the Award as below :—

AWARD

The Reference, as also the demands made by Hari Rao and the First Party Union on his behalf, are rejected with no order as to costs.

P. T KADKOL,
Presiding Officer,
Labour Court, Bangalore.

"COPY"

P. T. KADKOL,
Presiding Officer,
Labou Court, Bangalore.
23-10-67

ORDER.

Bangalore, dated the 6th November 1967.

S. O. 2165.—WHEREAS by State Government Order No. LMA 59 LLD 67, dated 15th February 1967, the Industrial Dispute between the Workmen and the Management of New Port Lunch Home, K. R. Road, Bangalore-2. was referred to the Labour Court, Bangalore for adjudication ;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 59 LLD 67.]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,
Under Secretary.

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